

EXHIBIT E

Cazares, Steve

From: Cormier, Claire (USACAN) <Claire.Cormier@usdoj.gov>
Sent: Friday, June 21, 2019 4:08 PM
To: Cazares, Steve
Cc: Coopersmith, Jeff
Subject: FW: SEC v. Balwani - Subpoenas to FDA-CMS

[EXTERNAL]

Steve,

I wanted to introduce myself since I will be taking over the Balwani subpoena matter from Rebecca Falk, who is leaving our office.

As you noted, it will take me some time to get up to speed, but FDA and CMS have been working on moving forward with the productions while waiting for the recent waiver and new protective order, as well as the recent decision on the motion to stay, and they will continue while I learn more about this case.

I have consulted with FDA and CMS and can give you some updates on the productions they are working on to supplement the approximately 55,000 pages from FDA and 250,000 pages from CMS previously provided to you. Barring technical or other difficulties, both CMS and FDA currently anticipate that they will begin additional productions in response to your client's Rule 45 subpoenas to the agencies in approximately a month. It is possible that goal could be stretched a bit depending on the availability of some necessary resources, but that is the current estimate.

I look forward to resolving the remaining issues relating to the subpoenas as expeditiously as possible.

My contact information is below.

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From: Falk, Rebecca (USACAN) <rfalk@usa.doj.gov>
Sent: Thursday, June 20, 2019 1:20 PM
To: Cormier, Claire (USACAN) <CCormier@usa.doj.gov>
Subject: FW: SEC v. Balwani - Subpoenas to FDA-CMS

Rebecca A. Falk
Assistant United States Attorney
United States Attorney's Office
Northern District of California

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San Francisco, California, 94102
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From: Cazares, Steve <SteveCazares@dwt.com>
Sent: Monday, June 17, 2019 12:03 PM
To: Falk, Rebecca (USACAN) <rfalk@usa.doj.gov>
Cc: Coopersmith, Jeff <JeffCoopersmith@dwt.com>
Subject: RE: SEC v. Balwani - Subpoenas to FDA-CMS

Rebecca,

We appreciate the fact that you may not control case staffing within the USAO, but these delays are prejudicing our client. On May 31, 2019, we provided you and FDA-CMS a copy of the supplemental protective order to facilitate production by the agencies. At that time, we requested a telephone call to discuss the production efforts by agencies to date, and logistics going forward. On June 3, 2019, in response, you deferred any discussions of the agency productions until after the June 10, 2019 hearing on the SEC's motion to stay discovery. This deferral was notwithstanding the fact that we, on behalf of Mr. Balwani, have been trying to obtain a complete production from the agencies since the subpoenas were originally issued in September 2018. On June 11, 2019, we further provided to you and the agencies with a copy of the waiver of trade secret and other confidentiality issues by the assignee for Theranos to further facilitate the agencies' productions.

Now, apparently, a new AUSA in the civil division will be assigned and need time to review the file and get up to speed before we can then proceed to make progress in obtaining documents in response to subpoenas issued 9 months ago. This is not acceptable. Please advise the new AUSA or whoever the supervisor is in the civil division that we expect a telephone call to discuss the agencies' productions this week.

Thank you,

Steve

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From: Falk, Rebecca (USACAN) <Rebecca.Falk@usdoj.gov>
Sent: Monday, June 17, 2019 11:38 AM
To: Cazares, Steve <SteveCazares@dwt.com>
Cc: Coopersmith, Jeff <JeffCoopersmith@dwt.com>
Subject: RE: SEC v. Balwani - Subpoenas to FDA-CMS

[EXTERNAL]

Steve –

Thanks for passing this along. This case has been reassigned in our office, so I will be back in touch with contact information and then you can work out a schedule for a call with the assigned AUSA.

Best regards,
Rebecca A. Falk

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From: Cazares, Steve <SteveCazares@dwt.com>
Sent: Friday, June 14, 2019 4:43 PM
To: Falk, Rebecca (USACAN) <rfalk@usa.doj.gov>
Cc: Coopersmith, Jeff <JeffCoopersmith@dwt.com>
Subject: SEC v. Balwani - Subpoenas to FDA-CMS

Rebecca,

You may or may not have heard, but this afternoon Judge Davila denied the motion to stay discovery, copy attached. In light of this development, we have some questions regarding the expected productions by the FDA and CMS. Can we get together on a phone call Monday afternoon to discuss?

Thanks,

Steve

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